

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6801

BILL NUMBER: SB 199

NOTE PREPARED: Jan 17, 2008

BILL AMENDED: Jan 16, 2008

SUBJECT: Environmental Crimes.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Environmental Crimes*. This bill repeals environmental crimes statutes, and substitutes a statute that (1) establishes criminal penalties for environmental violations; (2) establishes more severe penalties if the violations result in substantial harm to the environment or loss of human life; (3) establishes factors to be considered in sentencing; and (4) establishes fines.

Environmental Crimes Task Force. The Environmental Crimes Task Force is extended for one year.

Effective Date: (Amended) Upon passage; July 1, 2008.

Explanation of State Expenditures: *Environmental Crimes*. The overall impact is not expected to be significant because the majority of environmental violations are handled through civil enforcement means. Criminal prosecutions are rare.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

(Revised) *Environmental Crimes Task Force*. Extending the task force for one year will result in an additional expenditure of no more than \$16,500, depending upon how often the task force meets. In 2007,

the task force met one time and expended less than \$1,000. Expenses of the task force are paid from appropriations made to the Legislative Council or to the Legislative Services Agency (LSA). LSA is to provide the staff for the task force.

Explanation of State Revenues:(Revised) *Environmental Crimes*. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The court under certain circumstances may order a person convicted of a Class C felony to pay a fine of at least \$10,000 and not more than \$50,000. If the person has a prior unrelated conviction for an offense that may be punished as a felony, a fine of not more than \$100,000 for each day of violation may be levied.

The court may order a person convicted of certain Class D felonies to pay a fine of at least \$10,000 and not more than \$50,000 for each day of violation; or if the person has a prior unrelated conviction for an offense that may be punished as a felony, a fine of not more than \$100,000 for each day of violation.

Certain Class C misdemeanors may be punished by a fine of at least \$5,000 for each instance and not more than \$10,000 for each instance. Other Class C misdemeanors may be punished by a fine of at least \$10,000 per day for each violation and not more than \$25,000 per day for each violation.

A person who is convicted of a Class B misdemeanor may be punished by a fine of at least \$10,000 per day for each violation and not more than \$25,000 per day for each violation. If the person has a prior unrelated conviction for an offense that may be punished as a felony, a fine of not more than \$100,000 for each day of violation may be levied.

However, any additional revenue would likely be small. Criminal fines are deposited in the Common School Fund. Additional revenues that would be generated by the fines would be based on violations.

Explanation of Local Expenditures: (Revised) *Environmental Crimes*. A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. With respect to other violations, if more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Environmental Crimes*. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: LSA, Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Bernadette Bartlett, 317-232-9586.